

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #65-18

Manalapan Township, Monmouth County

WHEREAS, Manalapan Township, Monmouth County, petitioned the Council on Affordable Housing (COAH) on December 30, 2008 for third round substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Manalapan's petition was deemed complete on January 9, 2009; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, Manalapan Township published notice of its petition on February 25, 2009 in the *Asbury Park Press*, which is a newspaper of general circulation within the county; and

WHEREAS, during the 45-day objection period, which ended April 17, 2009, COAH received five objections to Manalapan's third round plan: Stephen Eisdorfer Esq., of Hill Wallack, on behalf of Mr. John Ploskonka; Jeffrey Kantowitz Esq., of Day Pitney LLP on behalf of Triplet Square, LLC; Art Bernard, PP, on behalf of Boulder at Manalapan, LLC; Adam M. Gordon Esq., on behalf of Fair Share Housing Center (FSHC); and Four Seasons at Manalapan Homeowners Association, Inc. (the Association); and

WHEREAS, the Association was issued an incomplete letter and was given 14 days to cure its objection pursuant to N.J.A.C. 5:96-4.2(b); and

WHEREAS, the Association chose not to cure the objection; and

WHEREAS, FSHC subsequently withdrew its objection on September 25, 2009; and

WHEREAS, a COAH Pre-mediation Report Requesting Additional Information was issued on August 28, 2009; and

WHEREAS, mediation between Manalapan and representatives for Mr. John Ploskonka took place in COAH's offices in Trenton on September 8, 2009; and

WHEREAS, Manalapan and Mr. John Ploskonka executed a mediation agreement on January 13, 2010; and

WHEREAS, the mediation agreement provides that the Township will purchase the Lewis Street site from Mr. Ploskonka for the development of affordable housing in exchange for Mr. Ploskonka's withdrawal of his objection; and

WHEREAS, mediation between the Township and Triplet Square and Boulder took place in COAH's offices in Trenton on September 29, 2009; and

WHEREAS, the mediation in these matters did not result in settlements and the mediator determined that further mediation before COAH would not result in negotiated settlements; and

WHEREAS, the mediator finds that there are no contested issues of material fact which necessitate referral to the Office of Administrative Law (OAL); and

WHEREAS, pursuant to N.J.A.C. 5:97-3.4(b), Manalapan re-petitioned by motion with a minor technical amendment to its Housing and Fair Share Plan on May 4, 2010, to reduce the number of affordable units proposed at the Millhurst Road site from 208 units to 120 units, include a site for an additional 80-unit municipally sponsored 100 percent affordable project on Wood Avenue, and increase the number of affordable units in the Lewis Street project from two to ten; and

WHEREAS, Manalapan's re-petition was deemed complete on May 4, 2010; and

WHEREAS, COAH did not receive opposition to the motion during the 20-day response period, which ended on June 15, 2010; and

WHEREAS, the COAH Compliance and Mediation Reports were issued on June 18, 2010; and

WHEREAS, on June 18, 2010, COAH received opposition to Manalapan's motion from Jeffrey Kantowitz Esq., of Day Pitney LLP, on behalf of Triplet Square; and

WHEREAS, on June 23, 2010, COAH issued a letter to Mr. Kantowitz informing him that his opposition was received subsequent to the deadline for filing any opposition to Manalapan's motion, but that COAH would fully consider his opposition as comments to the Compliance Report, and that any additional comments to the Compliance Report must be received by COAH by noon on July 2, 2010; and

WHEREAS, Manalapan Township's fair share plan addresses its 36-unit rehabilitation obligation, 706-unit prior round obligation and 277-unit net projected growth share obligation pursuant to Appendix F of N.J.A.C. 5:97; and

WHEREAS, Manalapan Township's plan proposes to address its 36-unit rehabilitation obligation with credits for rehabilitated units; and

WHEREAS, Manalapan Township's plan proposes to address its 706-unit prior round obligation with 704 credits, including: six prior cycle credits for a group home; 13 credits and 13 rental bonuses for group home bedrooms; 100 credits for completed family sale units in the Knob Hill inclusionary development; 67 credits for completed family sale units in the Samaritan Center inclusionary development; 28 credits for completed family sale units in the Tracy Station Woods inclusionary development; 26 credits for completed family sale units in the Meadow Creek inclusionary development; 100 credits and 29 rental bonuses for completed age-restricted rental units in the Heritage Village development; 41 RCA credits through a completed RCA with Hightstown; 62 RCA credits through a completed RCA with Lawrence; 100 RCA credits through a completed RCA with Red Bank; and 119 RCA credits through a completed RCA with Trenton; and

WHEREAS, Manalapan's plan proposes to address its remaining two-unit prior round obligation with two family for-sale units at the Lewis Street municipally sponsored 100 percent affordable project, to be developed by the Affordable Housing Alliance; and

WHEREAS, Manalapan Township's plan proposes to address its 277-unit projected growth share obligation with the remaining eight family for-sale units at the Lewis Street municipally sponsored 100 percent affordable project; a proposed 80-unit family rental municipally sponsored 100 percent affordable housing project known as the Wood Avenue

project, for which the Township is requesting 69 rental bonuses; and a future proposed 120-unit municipally sponsored 100 percent affordable housing project(s) in Millhurst Road, which will contain 35 family rental units, 50 age-restricted rental units and 35 supportive/special needs units; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Manalapan has provided an implementation schedule that sets forth a detailed timetable that demonstrates a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7 for the future proposed 120-unit municipally sponsored 100 percent affordable housing project(s) on Millhurst Road; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on June 18, 2010, COAH issued a Mediation Report and a Compliance Report (Exhibit A) recommending approval of Manalapan Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day comment period to submit comments to the COAH Compliance Report and Mediation Report pursuant to N.J.A.C. 5:96-6.2(b), and COAH received comments from Jeffrey Kantowitz Esq., of Day Pitney LLP, on behalf of Triplet Square, that have been responded to in a separate report dated July 15, 2010 (Exhibit B); and

WHEREAS, the comments received from Triplet Square do not alter the COAH Compliance or Mediation Report.

NOW THEREFORE BE IT RESOLVED that Manalapan's motion for a revision with a minor technical amendment to its Housing and Fair Share Plan is granted; and

BE IT FURTHER RESOLVED that the Housing Element and Fair Share Plan submitted by Manalapan Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that the COAH Mediation Report for Manalapan Township is accepted; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(a) and after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Manalapan Township; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(e), Manalapan Township shall adopt all implementing Fair Share Ordinances within 45 days of the grant of substantive certification, which includes the ordinance establishing the position of a municipal housing liaison, the affordable housing ordinance and the zoning ordinance for the Lewis Street site; and

BE IT FURTHER RESOLVED that the agreement between the Affordable Housing Alliance and Manalapan must be executed within 45 days after the grant of substantive certification and submitted to COAH; and

BE IT FURTHER RESOLVED that if Manalapan Township fails to timely adopt its Fair Share Ordinances and execute the agreement with the Affordable Housing Alliance, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Manalapan shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Manalapan shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Manalapan's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Manalapan's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to

determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Manalapan and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedules pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, COAH may direct Manalapan Township to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Manalapan shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Manalapan's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Manalapan Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on July 15, 2010

A handwritten signature in black ink, reading "Renée Reiss". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Renée Reiss, Secretary
Council on Affordable Housing

Exhibit A



***Council on Affordable Housing
Compliance Report
June 18, 2010***



Municipality: Manalapan Township
County: Monmouth County

COAH Region: 4
Planning Area: 2, 4B
Special Resource Area: None

Original Petition for 3rd Round Substantive Certification: 12/30/2008
Original Housing Element and Fair Share Plan Adopted: 12/11/2008
Completeness Determination: 1/9/2009
Date of Publication: 2/25/2009
Objections Received: Yes

1. Fair Share Housing Center (subsequently withdrawn on September 25, 2009)
2. Triplet Square, LLC
3. John Ploskonka
4. Boulder at Manalapan, LLC

Mediation Commenced: September 8, 2009
Mediation Concluded: September 29, 2009

Amended Housing Element and Fair Share Plan Adopted: April 22, 2010
Re-petition by Motion: May 4, 2010
Completeness Determination: May 4, 2010
End of 20-day response period: June 15, 2010
End of 10-day reply period: June 25, 2010
Comments Received: No
Petition Includes:
 VLA: No
 GPA: No
 Waiver: No

Date of Site Visit: July 31, 2009

History of Approvals:

	COAH	JOC	N/A
First Round:	4/11/1986		
Second Round:	10/23/1996		
Extended Certification:	5/11/2005		

Plan Preparer: Richard Cramer, P.P., AICP – T&M Associates
Municipal Housing Liaison: Rose Ann Weeden, Township Clerk
Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	36
Prior Round Obligation	706
Projected Growth Share Obligation (Net)	277

ACTUAL GROWTH and GROWTH SHARE through September 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
1,218	243.6	437	27.3	271

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 36 units				
Program(s)	Rehabilitation credits	36		36
Rehabilitation Subtotal				36
NEW CONSTRUCTION:				
Prior Round: 706 units				
Credits	Prior Cycle	6		6
	Post-1986	698		698
Proposed Mechanism(s)	Municipally Sponsored 100 percent affordable projects	2		2
Prior Round Subtotal				706
Growth Share: 277 units				
Proposed Mechanism(s)	Municipally Sponsored 100 percent affordable projects	-	208	208
Growth Share Bonus(es)	Rental	-	69	69
Growth Share Subtotal				277

¹ Does not include exclusions permitted under N.J.A.C. 5:97-2.4, which may lower actual growth share.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Manalapan's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Manalapan Township has a rehabilitation share of 36 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Manalapan has a prior round obligation of 706 units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Manalapan has a residential projection of 1,531 units and a non-residential projection of 2,089 jobs, which results in an initial projected growth share obligation of 437 affordable units. However, after subtracting the allowable exclusions itemized in Worksheet A (attached as

Attachment 1), the Township's residential projection is reduced to 734. Therefore, the Township's total projected growth share for the period 1999-2018 is 277 affordable units consisting of a 146.8-unit projected residential growth share and a projected non-residential growth share of 130.6.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	36
Prior Round Obligation	706
Projected Growth Share Obligation (Net)	277

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Manalapan Township's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Manalapan is requesting credit for its entire rehabilitation obligation. Since April 1, 2000, 58 units have been rehabilitated through the Monmouth County Housing Improvement Program.

² The Township's residential projection of 734 is divided by 5 to yield 146.8 units and the nonresidential projection of 2,089 jobs is divided by 16 to yield 130.56 units. The Township's total projected growth share is therefore 277 units (146.8 + 130.56).

In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Rehabilitation Credits

Rehabilitation Program	# Credits
County Rehab Program	36
TOTAL	36

B. Plan to Address Prior Round Obligation

Prior Round Credits

Manalapan is addressing a portion of its prior round obligation with six prior cycle credits and 698 post-1986 credits, totaling 704 credits and bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Prior Cycle Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Total Units/Bedrooms
Alexandria Drive ARC group home	1985	Supportive/Special Needs Housing	6	6
TOTALS			6	6

Post-1986 Credits

Project/Development Name	Year Built or Approved	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Church Lane ARC group home	1987	Supportive/Special Needs Housing	6	Rental	6	12
Knox Lane group home	1991	Supportive/Special Needs Housing	4	Rental	4	8
Sandpiper Drive group home	1992	Supportive/Special Needs Housing	3	Rental	3	6
Knob Hill inclusionary	2001	Family For-Sale	100	-	-	100
Samaritan Center inclusionary	2001	Family For-Sale	67	-	-	67
Tracy Station Woods inclusionary	2001	Family For-Sale	28	-	-	28
Four Seasons (Heritage Village)	2008	Age-Restricted Rentals	100	Rental	29	129
Villages of Manalapan (Meadow Creek)	2008	Family For-Sale	26	-	-	26
Hightstown RCA	2003	RCA	41	-	-	41
Lawrence Township RCA	2005	Rental RCA	62	-	-	62
Red Bank RCA ³	2005	RCA	100	-	-	100
Trenton RCA ⁴	2005	RCA	119	-	-	119
TOTALS			656		42	698

Proposed Affordable Housing Mechanisms

Manalapan proposes to address the remaining two-unit prior round obligation through the following mechanism:

³ Partial transfer: Manalapan is transferring funds in accordance with the approved RCA schedule.

⁴ Partial transfer: Manalapan is transferring funds in accordance with the approved RCA schedule.

Lewis Street Municipally Sponsored 100 percent Affordable Development

Manalapan Township's previously certified Housing Element and Fair Share Plan included a proposed development known as Lewis Street (Ploskonka). The site, located on Wood Avenue (Block 48/Lot 8.04), consists of one acre and was initially intended to produce two affordable family for sale units. The development received its preliminary approval from the zoning board on January 1, 1991, and its final approval on January 28, 1993. The development was never constructed. On March 11, 2009, COAH received an objection from Stephen Eisdorfer, Esq. on behalf of the owner of the property, John Ploskonka. The letter indicated that the property was not available for two affordable housing units, and instead requested that the property be rezoned to allow for 22 condominium units, with a 20 percent set-aside. Mediation between the Township and Mr. Ploskonka was held on September 8, 2009. As a result of mediation and further discussions among the parties, a mediation agreement was executed on January 13, 2010. The mediation agreement provided that the Township would purchase the site from Mr. Ploskonka for the development of affordable housing in exchange for Mr. Ploskonka withdrawing his objection.

On May 4, 2010, Manalapan re-petitioned by motion with a minor revision to reduce the number of affordable units proposed at the Millhurst site from 208 units to 120 units, to include a site for an additional 80-unit municipally sponsored 100 percent affordable project on Wood Avenue (Block 47, Lot 17), and to increase the number of affordable units in the Lewis Street project from two to ten. Pursuant to N.J.A.C. 5:96-3.4, if the revision to the Housing Element and Fair Share Plan alters the plan to address the municipality's fair share obligation (1,019 total units) by ten percent or less, it may be considered a minor revision. A municipality seeking a minor revision to its adopted Housing Element and Fair Share Plan may do so by motion pursuant to N.J.A.C. 5:96-14.3.

Manalapan, in conjunction with the Affordable Housing Alliance (AHA), is proposing to construct 10 affordable for-sale townhouse units on the Lewis Street site. Manalapan has submitted a draft developer's agreement with the AHA. On June 9, 2010, the Township adopted a resolution authorizing the closing of the title on the property as well as approving the developer's agreement with the AHA. The developer's agreement provides that after the site is acquired by Manalapan, it will transfer the title to the AHA. The developer's agreement must be

executed within 45 days of substantive certification. The AHA will also be the administrator of the project. Manalapan has also submitted a draft overlay zone for the property (Affordable Housing Overlay Zone-2), which provides the development standards needed for this project. The zoning ordinance must be adopted within 45 days of substantive certification and submitted to COAH.

Pursuant to N.J.A.C. 5:97-6.7(d)6, Manalapan has submitted a pro forma for the project. The AHA proposes to fund the project with a construction loan, bridge loan/equity, Balanced Housing/County HOME funds, a deferred developer fee and municipal funds. The developer's agreement indicates that the AHA will first attempt to secure outside funding sources for the project before municipal resources will be used. Manalapan's amended spending plan allocates \$250,000 for the purchase of the property. Manalapan has submitted a resolution of intent to bond, adopted on October 19, 2009, in the event of a shortfall in funding.

In addition, the Township has submitted a construction schedule. The construction schedule indicates that construction will begin within 17 months of the predevelopment preparations, which is within two years of substantive certification pursuant to N.J.A.C. 5:97-6.7(b)3.

Pursuant to N.J.A.C. 5:97-3.13, the site is suitable. The site is located in Planning Area 2 and there are no environmental constraints on the property. The site will be served by public water and sewer.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, rental pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Manalapan must submit the required items pursuant to N.J.A.C. 5:97-6.7(e). Two units will be used to address the Township's prior round obligation and the remaining eight units will be carried forward to the growth share obligation. **[2 family for-sale units]**

Proposed Prior Round Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Lewis Street Municipally Sponsored 100% Affordable Project	Family For-sale	2	-	-	2
TOTALS		2		-	2

Prior Round Obligation Parameters

Manalapan Township has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:⁵ 175 Units

Development/Project Name	Type of Affordable Unit	# Units
Church Lane group home	Supportive/Special Needs	6
Knox Lane group home	Supportive/Special Needs	4
Sandpiper Drive group home	Supportive/Special Needs	3
Four Seasons	Age-Restricted Rentals	100
Lawrence Township RCA	Rental RCA	62
TOTAL		175

⁵ Rental Obligation: $.25 \text{ (Prior Round Obligation-Prior Cycle Credits) or } .25(706-6) = 175$ N.J.A.C. 5.97-3.10(b)1

Prior Round Age-Restricted Maximum:⁶ 100 Units

Development/Project Name	Type of Affordable Unit	# Units
Four Seasons	Age-restricted Rental	100
TOTAL		100

Regional Contribution Agreement (RCA) Maximum:⁷ 350 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
Hightstown RCA	RCA	41
Lawrence Township RCA	Rental RCA	62
Red Bank RCA	RCA	100
Trenton RCA	RCA	119
TOTAL		322

Prior Round Rental Bonus Maximum:⁸ 175 Units

Development/Project Name	Type of Bonus	# Bonuses
Church Lane ARC group home	Rental	6
Knox Lane group home	Rental	4
Sandpiper Drive group home	Rental	3
Four Seasons	Age-Restricted Rental	29
TOTAL		42

⁶ Age-Restricted Maximum= .25 (Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits - Rehabilitation Credits -Transferred RCA Units Addressing the Prior Round Obligation) or .25(706+36-6-36-322) = 95 units. N.J.A.C. 5:97-3.10(c)1. However, the Township received a waiver on February 9, 2005, as part of an amendment to its second round substantive certification, from the formula regarding the maximum number of age-restricted units for which a municipality may receive credit when the plan also contains an RCA, in order to utilize the 100 age-restricted units in addressing its prior round obligation. Pursuant to N.J.A.C. 5:97 4.1(c), COAH will honor the number of age-restricted credits included in the previously certified plan if the mechanism that was included in that certification still presents a realistic opportunity. Therefore, Manalapan's age-restricted cap is 100.

⁷ RCA Maximum: .50(Prior Round Obligation + Rehabilitation Share - Prior Cycle Credits - Rehabilitation Credits) or .50(706+36-6-36) = 350 N.J.A.C. 5:97-3.10(d)1

⁸ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation or 175 N.J.A.C. 5:97-3.5

C. Plan to Address Projected Growth Share

Proposed Affordable Housing Mechanisms

The Township proposes to address its 277-unit projected growth share obligation through the following mechanisms:

Lewis Street Municipally Sponsored 100 percent Affordable Development

As described above under Section II, Part B, of this report, two units of the 10 proposed affordable family for-sale units at the Lewis Street 100 percent municipally sponsored affordable project will be used to address a portion of Manalapan's prior round obligation. The remaining eight affordable family for-sale units will be used to address a portion of the Township's growth share obligation. **[8 family for-sale units]**

Wood Avenue (Ingerman-Block 47, Lot 17) Municipally Sponsored 100 percent Affordable Development

Manalapan's December 11, 2008 third round plan initially proposed to utilize Block 66.21, Lot 1 (Millhurst Road) to provide 208 units through a municipally sponsored project. On May 4, 2010, Manalapan re-petitioned by motion with a minor revision to reduce the number of affordable units proposed at the Millhurst site from 208 units to 120 units, to include a site for an additional 80-unit municipally sponsored 100 percent affordable project on Wood Avenue (Block 47, Lot 17), and to increase the number of affordable units in the Lewis Street project from two to ten.

The Wood Avenue project will be developed and managed by the Ingerman Group, which is an affordable housing development and management company. The Township submitted an overlay zone for the site that was adopted on December 16, 2009, a pro-forma and construction schedule from the Ingerman Group and a housing trust fund agreement between the Township and Ingerman that was executed on September 9, 2009, for the 110 units. However, subsequently, the number of units was reduced to 80 affordable rental units. The trust fund agreement, pro-forma and construction schedule, were amended to reflect this reduction in units.

Pursuant to N.J.A.C. 5:97-3.13, the Township indicates that the Wood Avenue site is suitable. The Wood Avenue site is located in the western part of the Township at 48 Wood Avenue. The site will have frontage along Route 522/Wood Ave. The site is owned by 522 Enterprises, Inc., which has a contract for sale with MBI Development Company. MBI is part of the Ingerman Group of companies. The site is 26.32 acres and is located in the Township's R-40/20 zoning district. The site is surrounded by residential and light industrial uses. The site was rezoned (Affordable Housing Overlay Zone-1) on December 16, 2009, to accommodate the 100 percent affordable project.

The Wood Avenue site is located in Planning Area 2. The site contains 16.80 acres (out of 26.32 total acres) of wetlands on the northern (back) portion of the site, leaving the already disturbed portion on Wood Avenue unencumbered, which is where the proposed development will take place. An unnamed tributary of the Matchaponix Brook, which is identified as a Critical Environmental Site (CES), transverses the wetlands in the northern portion of the site. A small portion of the site is in the flood hazard area that is associated with the Brook (.61 acres), which is also in the wetlands area. There are some steep slopes on the site, but the Township indicates that these are a result of prior site disturbance and can be excavated. The site was previously used by Monmouth Petroleum. The Township and Ingerman Group are aware of an oil spill that occurred on the property. The Township and Ingerman indicate that this can be remediated prior to the development of the property in accordance with NJDEP requirements. A Phase I study was conducted in 2006; however, a new Phase I and/or Preliminary Assessment will need to be completed. The buildings that are currently on the property will be demolished.

The development will be served by public water and sewer. The Township indicates that the site is located within the existing and planned sewer service area of the Western Monmouth Utilities Authority. The site is also located within the public water service area of the Gordons Corner Water Company.

Ingerman has submitted a revised financing study and a rental income analysis for the project based on the 80 affordable units, of which ten of the units will be reserved for very-low income families. In addition, Ingerman has submitted a development schedule. The construction schedule indicates that building permits are anticipated to be issued in March 2011, which is

within two years of substantive certification pursuant to N.J.A.C. 5:97-6.7(b)3. The schedule also includes cleanup of the contamination.

The Ingerman Group proposes to fund the project with New Jersey Housing and Mortgage Finance Agency (HMFA) low-income housing tax credits, a deferred developer fee, HMFA permanent financing, equity and a construction loan. Ingerman applied for the tax credit funding in May 2010. Pursuant to an amended affordable housing trust fund agreement that was authorized by the Township on December 16, 2009, and executed by the parties on January 12, 2010, Manalapan is also providing \$1,650,000 to Ingerman as a loan for the project. The Township has included this expense in its amended spending plan. Manalapan has submitted a resolution of intent to bond, adopted on October 19, 2009, in the event of a shortfall in funding.

Manalapan is requesting 69 rental bonuses for the affordable units. The Township should note that in the event the units are not constructed in accordance with the construction schedule, Manalapan may lose the rental bonuses pursuant to N.J.A.C. 5:97-3.6(a)3ii.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. The Ingerman Group will act as the administrative agent for the project. Prior to marketing the affordable units, Manalapan must submit the required items pursuant to N.J.A.C. 5:97-6.7(e). **[80 family rental units & 69 rental bonuses]**

***Millhurst Road (Block 66.21, Lot 1) Municipally Sponsored 100 percent Affordable
Development***

As indicated above, Manalapan's December 11, 2008 third round plan initially proposed to utilize Block 66.21, Lot 1 (Millhurst Road) to provide 208 units through a municipally sponsored project to address the Township's entire projected growth share obligation. The development was to include 104 family rentals units, 69 age-restricted rental units and 35 special needs units for the developmentally disabled. In addition, 19 of the units were to be available to very-low income families. In the plan, the Township noted that it reserved the right to substitute a different site for this site if a more suitable site was identified.

Manalapan's re-petition indicates that it will continue to utilize Block 66.21, Lot 1 for a future municipally sponsored 100 percent affordable project(s) for the Township's remaining 120-unit projected growth share obligation. However, the Township continues to reserve the right to substitute another site(s) for all or part of the balance of the obligation in the future. The Township is proposing to partner with another non-profit or other affordable housing provider for the development of the site. The development(s) will contain 35 family rentals, 50 age-restricted rentals and 35 special needs units for the developmentally disabled, for a total of 120 units. The project(s) will also contain four very-low income family units. The Township's spending plan allocates approximately \$3,832,778 for future municipally sponsored projects.

The site is 16.03 acres and is municipally owned. It was acquired from K. Hovnanian as part of the Meadows and Four Seasons approvals. The Township indicates that the parcel is clear of wetlands and floodplains and 79 percent of the site is unconstrained by steep slopes. The development will be served by public water and sewer. The Township indicates that the site is located within the existing and planned sewer service area of the Western Monmouth Utilities Authority and a sewer line would be extended to the site from the Four Seasons development. The site is also located within the public water service area of the United Water Company.

Pursuant to N.J.A.C. 5:97-3.2(a)4, the Township has provided a revised implementation schedule for the proposed 120 units that sets forth a detailed timetable demonstrating a realistic opportunity as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.10(e), with building permits being issued in November 2014. Supporting documentation must be submitted to COAH in November 2012, two years before construction begins. The Township anticipates that a request for proposals will be issued by the Township in March 2012, and that certificates of occupancy will be issued in March 2016.

It should be noted that Manalapan intends on phasing the Millhurst Road project. Pursuant to N.J.A.C. 5:97-3.2(a)4i., municipalities must submit the necessary documentation at the time of petition for the mechanism(s) that are addressing the growth share obligation up to the first biennial review. Manalapan has an actual growth share obligation of 271 affordable units, based on certificates of occupancy that have been issued. However, N.J.A.C. 5:97-

2.4(a)1.ii provides that projects addressing a prior round obligation may be excluded from the residential growth. Therefore, at the biennial review, some of the units in the Meadow Creek and Four Seasons development can be excluded, which will reduce the actual growth share obligation.

The affordable units must meet the requirements of the Uniform Housing Affordability Controls (N.J.A.C. 5:80-1 et seq.) with regard to controls on affordability, affirmative marketing, pricing, low/moderate split and bedroom distribution. Prior to marketing the affordable units, Manalapan must submit the required items pursuant to N.J.A.C. 5:97-6.7(e). **[35 family rental units, 50 age-restricted rental units & 35 supportive/special needs units]**

Proposed Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Lewis Street Municipally Sponsored 100% Affordable Project	Family For-sale	8	-	-	8
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	80	Rental	69	149
Millhurst Road – (A) Future Municipally Sponsored 100% Affordable Project	Family Rental	35	-	-	35
Millhurst Road – (B) Future Municipally Sponsored 100% Affordable Project	Age-restricted Rental	50	-	-	50
Millhurst Road – (C) Future Municipally Sponsored 100% Affordable Project	Supportive/ Special Needs	35	-	-	35
TOTALS		208		69	277

Growth Share Parameters

Manalapan Township has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:⁹ 70 Units

Development/Project Name	Type of Affordable Unit	# Units	# Units Addressing Rental Obligation
Millhurst Road – (A) Future Municipally Sponsored 100% Affordable Project	Family Rental	35	35
Millhurst Road – (B) Future Municipally Sponsored 100% Affordable Project	Age-restricted Rental	50	0
Millhurst Road – (C) Future Municipally Sponsored 100% Affordable Project	Supportive/ Special Needs	35	35
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	80	0
TOTAL		200	70

Growth Share Family Rental Requirement:¹⁰ 35 Units

Development/Project Name	Type of Affordable Unit	# Units	# Bonuses*
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	80	69
Millhurst Road – (A) Future Municipally Sponsored 100% Affordable Project	Family Rental	35	0
TOTAL		115	69
Surplus		80	

*Subject to bonus maximum pursuant to N.J.A.C. 5:97-3.20

⁹ Projected Growth Share Rental Obligation: $.25(\text{Projected Growth Share})$ or $.25(277) = 69.25$ or 70 units - N.J.A.C. 5:97-3.10(b)3

¹⁰ Projected Growth Share Family Rental Requirement: $.5(\text{Projected Growth Share Rental Requirement})$ or $.5(70) = 35$ units N.J.A.C. 5:97-3.4(b)

Growth Share Minimum Family Requirement:¹¹ 104 Units

Development/Project Name	Type of Affordable Unit	# Units
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	80
Lewis Street Municipally Sponsored 100% Affordable Project	Family For-sale	8
Millhurst Road - Future Municipally Sponsored 100% Affordable Project (A)	Family Rental	35
TOTAL		123

Very Low Income Minimum Requirement:¹² 27 Units

Development/Project Name	Type of Affordable Unit	# Units
Millhurst Road - Future Municipally Sponsored 100% Affordable Project (C)	Supportive/ Special Needs	35
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	10
Millhurst Road - Future Municipally Sponsored 100% Affordable Project	Family Rental	4
TOTAL		49

Age-Restricted Maximum:¹³ 69 Units

Development/Project Name	Type of Affordable Unit	# Units
Millhurst Road – (B) Future Municipally Sponsored 100% Affordable Project	Age-restricted Rental	50
TOTAL		50

¹¹ Projected Growth Share Family Requirement: .5 (Units Addressing the Growth Share Obligation) or .5(208)= 104 units N.J.A.C. 5:97-3.9

¹² Growth Share Very Low Income Requirement: .13(Units Addressing the Growth Share Obligation) or .13(208)= 27.04 or 27 units N.J.S.A. 52:27D-329.1

¹³ Projected Growth Share Age Restricted Maximum: .25(Projected Growth Share) or .25(277)= 69.25 or 69 units N.J.A.C. 5:97-3.10(c)2

Bonus Maximum:¹⁴ 69 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Wood Avenue - Municipally Sponsored 100% Affordable Project	Family Rental	69
TOTAL		69

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Manalapan issued certificates of occupancy for 1,218 housing units and for the non-residential square footage equivalent of 437 jobs, yielding an actual growth share obligation through September 30, 2008, of 271 affordable units.¹⁵

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 36 Units

Program Name	# Units
County Program rehab credits	36
TOTAL	36

¹⁴ Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(277) = 69.25$ or 69 units N.J.A.C. 5:97-3.20

¹⁵ The number of residential COs (1,218) is divided by 5 to yield 243.6 units and the number of jobs (437) is divided by 16 to yield 27.3 units. Manalapan's total estimated actual growth share is therefore 271 units $(243.6 + 27.3)$. **Note:** this estimate does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.5; therefore, the actual growth share may vary.

PRIOR ROUND SUMMARY

Prior Round Obligation: 706 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Prior Cycle Credits	Alexandria Drive ARC group home	6			6
Post-1986 Credits	Church Lane ARC group home	6	Rental	6	12
	Knox Lane group home	4	Rental	4	8
	Sandpiper Drive group home	3	Rental	3	6
	Knob Hill inclusionary	100	-	-	100
	Samaritan Center inclusionary	67	-	-	67
	Tracy Station Woods inclusionary	28	-	-	28
	Four Seasons	100	Age-restricted Rental	29	129
	Meadow Creek	26	-	-	26
	Hightstown RCA	41	-	-	41
	Lawrence Township RCA	62	-	-	62
	Red Bank RCA	100	-	-	100
	Trenton RCA	119	-	--	119
Subtotal		662		42	704
Proposed Mechanisms	Lewis Street Municipally Sponsored 100% Affordable Project	2	-	-	2
Subtotal		664		42	706
TOTAL					706

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 277 Units

	Name of Mechanism	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Proposed Mechanisms	Lewis Street Municipally Sponsored 100% Affordable Project	8	-	-	8
	Wood Avenue - Municipally Sponsored 100% Affordable Project	80	Rental	69	149
	Millhurst Road – (A, B, C) Municipally Sponsored 100% Affordable Project(s)	120	-	-	120
Subtotal		208		69	277
TOTAL					277

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Manalapan's certified plan included a development fee ordinance that was approved by COAH on July 12, 1995, and adopted by the Township on August 8, 1995. COAH granted the Township approval of amendments to its development fee ordinance on August 2, 2006, and December 15, 2008.

B. Third Round Spending Plan

Manalapan's prior round spending plan was approved by COAH on July 29, 1996. A revised third round spending plan was submitted by Manalapan with the Township's third round petition for COAH's review and approval. The spending plan was approved by COAH on

September 3, 2009. An amended spending plan was submitted to COAH on January 15, 2010. The amended spending plan includes the \$250,000 for the purchase of the Lewis Street site and changes the allocation for the Ingerman project. The amended spending plan was approved on January 27, 2010.

C. Affordable Housing Ordinance/Affordable Housing Administration

Manalapan Township has an adopted affordable housing ordinance for its prior round obligation. Manalapan has submitted a revised draft affordable housing ordinance that comports with the requirements of the UHAC, which was amended on December 20, 2004, including compliance with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

A resolution appointing a municipal housing liaison was adopted by the Township on January 14, 2009. Manalapan has submitted a draft ordinance establishing the position of a municipal housing liaison. The ordinance must be adopted within 45 days of substantive certification.

Manalapan is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Township and must identify an experienced administrative entity for that purpose by contract or agreement. Manalapan utilizes the Affordable Housing Alliance of NJ (AHA) as its administrative agent. Manalapan has submitted its most recent contract with the AHA. The group homes are administered by the special needs providers. The Ingerman Group will act as the administrative agent for the Wood Avenue Project.

Pursuant to N.J.A.C. 5:97-6.7(e), prior to marketing the affordable units in the municipally sponsored projects, Manalapan must submit the following to COAH:

1. A draft or adopted operating manual that includes a description of the program procedures and administration in accordance with UHAC;
2. An affirmative marketing plan in accordance with UHAC; and

3. Designation of an experienced administrative agent, including a statement of his or her qualifications, in accordance with N.J.A.C. 5:96-18.

D. Affirmative Marketing Plan

Manalapan has submitted an affirmative marketing plan. The affirmative marketing plan will be reviewed for conformance with the requirements of the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq., to ensure the units in the Township's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Township and submitted to COAH.

IV. SUMMARY OF MEDIATION

A. Objections

COAH initially received five objections to Manalapan's initial third round plan: Stephen Eisdorfer Esq., of Hill Wallack, on behalf of Mr. John Ploskonka; Jeffrey Kantowitz Esq., of Day Pitney LLP on behalf of Triplet Square, LLC; Art Bernard, PP, on behalf of Boulder at Manalapan, LLC; Adam M. Gordon Esq., on behalf of Fair Share Housing Center (FSHC); and Four Seasons at Manalapan Homeowners Association, Inc. (The Association). The Association was issued an incomplete letter and was given 14 days to cure its objection pursuant to N.J.A.C. 5:96-4.2(b). The Association chose not to cure the objection. The objections and municipal response from Manalapan are summarized in COAH's August 28, 2009 Pre-Mediation Report Requesting Additional Information. FSHC subsequently withdrew its objection on September 25, 2009, because it was satisfied with the steps the Township had taken with regard to the Ingerman project.

B. Mediation

Mediation between the Township and representatives for Mr. John Ploskonka took place in COAH's offices in Trenton on September 8, 2009. Manalapan and Mr. John Ploskonka executed a mediation agreement on January 13, 2010. The mediation agreement provides that the

Township will purchase the Lewis Street site from Mr. Ploskonka for the development of affordable housing in exchange for Mr. Ploskonka withdrawing his objection.

Mediation between the Township and Triplet Square and Boulder took place in COAH's offices in Trenton on September 29, 2009. The mediation session did not result in an agreement between the parties.

Mediation concluded on September 29, 2009. The Mediation Report prepared by the mediator, Matthew H. Rudd Esq., is attached hereto as Attachment 2. The mediator concluded that there are no contested issues of material fact which necessitate referral to the Office of Administrative Law.

V. MONITORING

Manalapan must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Manalapan in writing and the Township may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Manalapan's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Manalapan and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a prorated production shortage of 10 percent or greater, Manalapan is not adhering to its implementation schedules pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share

obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the Township to amend its plan to address the shortfall.

VI. RECOMMENDATION

COAH staff recommends that Manalapan Township's Mediation Report be accepted and the Township be granted third round substantive certification. Manalapan must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. This includes the ordinance establishing the position of a municipal housing liaison, the affordable housing ordinance and the zoning ordinance for the Lewis Street site. In addition, the agreement between the AHA and Manalapan must be executed within 45 days after the grant of substantive certification and submitted to COAH.

Attachment 1

Workbook A: Growth Share Determination Using Published Data

(Using Appendix F(2), *Allocating Growth To Municipalities*)

COAH Growth Projections **Must be used in all submissions**

Municipality Name:

Manalapan Township

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. on Line 1 of this worksheet. Use the Tab at the bottom of this page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated. Use these figures in the Application for Substantive Certification.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2) *	1,531	2,089
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
COs for prior round affordable units built or projected to be built post 1/1/04	126	
Inclusionary Development	0	
Supportive/Special Needs Housing	0	
Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	671	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))		
Affordable units	0	0
Associated Jobs		
4 Net Growth Projection	734	2,089
5 Projected Growth Share (Conversion to Affordable Units Dividing Households by 5 and Jobs by 16)	146.80 Affordable Units	130.56 Affordable Units
6 Total Projected Growth Share Obligation		277 Affordable Units

* For residential growth, see Appendix F(2), Figure A.1, Housing Units by Municipality. For non-residential growth, see Appendix F(2), Figure A.2, Employment by Municipality.

Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Manalapan Township

Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
Total	0

Market and Affordable Units in Prior Round Inclusionary Development

Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
Meadow Creek (a.k.a. Meadows)	N	572	546	26	104
Four Seasons	Y	792	692	100	567
		0			0
		0			0
		0			0
Total		1,364	1,238	126	671

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
Total	0	0

[Return To Workbook A Summary](#)

Attachment 2

MANALAPAN MEDIATION REPORT

Manalapan Township, Monmouth County

By

Matthew H. Rudd Esq.

The first mediation session was held on September 8, 2009. Manalapan Township was represented by COAH Special Counsel Ronald Cucchiaro, Councilman Andrew Lucas, Councilwoman and Planning Board Member Michelle Roth and Township Engineer Rich Cramer. These individuals also represented the Township on September 29, 2009, except for Mr. Lucas. On September 8, 2009, Stephen Eisdorfer Esq., Hill Wallack and Engineer Bhaskar Halari, appeared on behalf of objector John Ploskonka. The parties also met on September 29, 2009 and numerous phone conversations were held between the parties and COAH staff.

On September 29, 2009, representatives appeared for two objectors, Boulder at Manalapan, L.L.C. (Boulder) and Triplet Square, LLC (Triplet). Boulder was represented by Art Bernard PP, Principals of the company Gary Schecher, Albert Bresnick and John Vagalia. Triplet was represented by Jeffrey Kantowitz Esq., Pitney Day, Creigh Rahenkamp PP, Principal of the company Nicholas Campanella and builder and developer from Windsor Companies David Meiskin.

Fair Share Housing Center (FSHC) had filed a timely objection but subsequently withdrew its objection prior to mediation. In correspondence on September 25, 2009 withdrawing its objection, FSHC noted that "[T]he addition of the Ingerman site and the commitment to providing 14 very-low-income units and an additional 41 low-income units on that site resolve FSHC's objections to Manalapan's Fair Share Plan filed on April 17, 2009." Four Seasons at Manalapan Homeowners Association, Inc. (Four Seasons) also filed correspondence objecting to Manalapan's Plan, however, the objection was deemed incomplete and Four Seasons was provided notice to cure. Four Seasons chose not to cure the objection.

MEDIATION

Ploskonka's representatives presented alternative proposals for inclusion in the fair share plan. Subsequent to mediation, the Township and Ploskonka entered into a mediation settlement agreement, whereby Manalapan agreed to purchase the Ploskonka site for \$250,000. The Ploskonka site will be used for the construction of 10 affordable housing units with no other construction on the site. The Affordable Housing Alliance (AHA) will develop and manage the site.

With respect to Boulder, the two main issues discussed at mediation were the inclusion of the Ingerman site for the Township's 100 percent affordable project and Boulder's desire for the Township to consider its site for inclusionary housing in the HE/FSP.

As to inclusion of the Ingerman project, Boulder takes exception to the T&M Associates site suitability report prepared for the Township for Block 47, Lot 17. This report, issued in July, 2009, seeks to include the Ingerman site for a 110-unit municipally sponsored project. Boulder contends that the Township must re-petition to include this site. Boulder notes there is no Township Planning Board resolution amending the Housing Element Fair Share Plan (HEFSP) to include Block 47, Lot 17 and there has been no opportunity for public comment. In response, the Township noted that the HEFSP has always included, albeit without a specific site, two 100% affordable housing municipally sponsored mechanisms that were to be phased. The Township argued that it should not be penalized for the fact that the Township has designated a site for its 100 percent affordable housing project well before designation of a site was called for in the implementation schedule.

Boulder provided and reviewed a layout drawing for the Boulder property. After much discussion, the Township made clear that although it was not interested in adding the site to the fair share plan, the Township agreed to entertain for discussion purposes only, a proposal for the site. The Parties agreed to discuss the matter and the Township would review any plan submitted over the next two weeks.

Triplet also presented two issues to discuss at mediation: the inclusion of the Ingerman project and its desire for the Township to include its site for inclusionary development in the HE/FSP.

Jeffrey Kantowitz, on behalf of Triplet, noted in his correspondence of September 28, 2009, that the recent inclusion of the Ingerman project necessitates a re-petition under N.J.A.C. 5:96-3.4. As noted above, the same arguments and rebuttal were put forth in the Boulder mediation session. Issues were also raised about the environmental status of the Ingerman site. The Township advised that Ingerman has a Phase 1 environmental report for the site. The Township agreed to provide COAH staff and Triplet a copy of the report within two weeks, which was done.

Triplet provided and described a layout drawing of the Triplet site. The drawing contained a mixed-use development with store fronts near the road and a large inclusionary residential building in the back. The Township representatives noted that the concept was not in line with the historical nature of the area. After much discussion, the Parties agreed that Triplet may present a revised plan to the Township Planning Board in a work session, based on the comments provided at mediation. The parties also agreed that the review of a revised plan would occur outside of the COAH process, but may help to create affordable housing.

MEDIATION OUTCOME

As noted above, the mediation successfully resulted in a mediation agreement between the Township and objector Ploskonka. The mediation agreement was executed on January 13, 2010. Ploskonka and the Township have entered into an agreement pursuant to N.J.A.C. 5:96-8.4(c). The Ploskonka site will be used for the construction of

10 affordable housing units. The Affordable Housing Alliance (AHA) will develop and manage the site. Manalapan has submitted to COAH a draft developer's agreement with the AHA, a draft zoning ordinance, a pro-forma and a construction schedule for the 100 percent affordable housing development. The Township intends to adopt the zoning ordinance and execute the developer's agreement with the AHA within 45 days of substantive certification.

Objectors Boulder and Triplet both sought to present their respective proposals before the Manalapan's governing body. Both Boulder and Triplet representatives indicated they would meet with the Township Committee to discuss their respective proposals on January 27, 2010.

On May 4, 2010, Manalapan filed a re-petition with COAH. The details of the re-petition are in the Compliance Report. The re-petition includes an amended updated contract to purchase pertaining to Ingerman.

There are no outstanding issues of material fact, this matter is not being referred to either the Council or to the Office of Administrative Law, pursuant to N.J.A.C. 5:96:8.4(b) and N.J.A.C. 5:96-9. The mediation report is submitted to the Council for its approval

Exhibit B

**COAH REPORT IN RESPONSE TO COMMENTS
RECEIVED REGARDING COMPLIANCE & MEDIATION REPORTS
MANALAPAN TOWNSHIP/ MONMOUTH COUNTY
REGION #4
July 15, 2010**

Manalapan Township, Monmouth County, petitioned the Council on Affordable Housing (COAH) for third round substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation on December 30, 2008. During the 45-day objection period, Jeffrey Kantowitz Esq., of Day Pitney LLP on behalf of Triplet Square (Triplet), LLC, submitted an objection to COAH regarding Manalapan Township's Housing Element and Fair Share Plan (among other objectors detailed in the Compliance Report dated June 18, 2010). Triplet is the owner of Block 27, Lots 26, 32.01 and 34.01. The site is 7.9 acres and is located along County Route 522 and Main Street.

The objection focused on the Township's Housing Element and Fair Share Plan and how Triplet believes that the plan does not provide a realistic opportunity for affordable housing. At the time that the objection was submitted, Manalapan's petition included Block 66.21, Lot 1 to provide 208 units through a municipally sponsored project, located on Millhurst Road. Triplet's objection focused on Manalapan addressing its entire obligation with one municipally sponsored project which the objector maintains lacks the necessary details for the project. Triplet proposed to develop its property for a 120-unit inclusionary development with a 20 percent set aside.

A COAH Pre-mediation Report Requesting Additional Information was issued on August 28, 2009. Mediation commenced on September 8, 2009, and concluded on September 29, 2009. Manalapan reached a mediation agreement with Mr. John Ploskonka, another objector to the Township's Fair Share Plan on January 13, 2010. Mediation between the Township and Triplet and Boulder Development (another objector) did not result in settlements and the mediator did not believe that further mediation before COAH would result in settlements being reached. Therefore, the mediator concluded mediation finding that there were no contested issues of material fact which necessitated referral to the Office of Administrative Law (OAL).

Pursuant to N.J.A.C. 5:97-3.4(b), Manalapan re-petitioned by motion with a minor technical amendment to its Housing and Fair Share Plan on May 4, 2010, to reduce the number of affordable units proposed at the Millhurst Road site from 208 units to 120 units, to include a

site for an additional 80-unit municipally sponsored 100 percent affordable project on Wood Avenue, and to increase the number of affordable units in the Lewis Street project from two to ten. Pursuant to N.J.A.C. 5:97-3.4, if the revision to the Housing Element and Fair Share Plan alters the plan to address the municipality's fair share obligation (Manalapan's total fair share obligation is 1,019 total units) by ten percent or less, it may be considered a minor revision. A municipality seeking a minor revision to its adopted Housing Element and Fair Share Plan may do so by motion pursuant to N.J.A.C. 5:96-14.3. Manalapan's re-petition was deemed complete on May 4, 2010, and COAH did not receive opposition to the motion during the 20-day response period, which ended on June 15, 2010. Therefore, the COAH Compliance and Mediation Reports were issued on June 18, 2010, allowing for a 14-day comment period. On June 18, 2010, COAH received opposition to Manalapan's motion for a minor revision from Jeffrey Kantowitz Esq., on behalf of Triplet. On June 23, 2010, COAH issued a letter to Mr. Kantowitz informing him that his opposition was received subsequent to the deadline for filing any opposition to Manalapan's motion, but that COAH would fully consider his opposition as comments to the Compliance Report, and that any additional comments to the Compliance Report must be received by COAH by noon on July 2, 2010.

During the 14-day comment period following the receipt of Manalapan Township's Compliance and Mediation Reports, one comment was received from Jeffrey Kantowitz Esq., on behalf of Triplet on July 2, 2010. Triplet also resubmitted previous comment and certifications that were in response to the Township's original petition. The comments do not alter the Compliance Report. In addition, Ronald D. Cucchiaro, Esq., on behalf of Manalapan Township, submitted a response to Triplet's comments.

Triplet's Comments

As indicated above, on June 18, 2010, COAH received opposition from Triplet to the Township's motion for a re-petition with a minor revision. Triplet argues that the motion should be denied and COAH should redirect Manalapan to do a full re-petition pursuant to N.J.A.C. 5:96-3.4, which allows for publication of the re-petition in a newspaper of general circulation within the county, a 45-day objection period and mediation if valid objections are received. Triplet maintains that Manalapan's reliance on N.J.A.C. 5:96-3.4(b) to proceed by way of motion, instead of a full re-petition, is misplaced and unsupported by the regulation. Triplet argues that the regulation requires that a municipality re-petition when "the revisions to the plan

include a change in site, substantial change in density, a change in any other zoning requirements that result in a change of housing type on a specific site or a fundamental change in approach to its fair share obligation.” Triplet states that the 10 percent motion alternative is only applicable when the revision does not involve the above circumstances.

Triplet’s July 2, 2010 letter and July 1, 2010 certification of J. Creigh Rahenkamp states that while the Township has amended its plan to adjust and add sites, the Township still has not addressed the fatal flaws in its plan, namely that the Township has not submitted and demonstrated adequate stable funding for its municipally sponsored construction projects, and that there are no facts related to the costs of the cleanup of the contamination on the Wood Avenue site. Triplet argues that the adopted resolution of intent to bond from the Township does not follow COAH’s model and provides the Township with the discretion to provide for an alternative source of funding such as municipal bonding or that the Township may instead elect to modify the plan, and, therefore, the Township has not committed to the project, as required by COAH’s rules. Triplet also argues that the Township’s resolution of intent to bond does not cover the Lewis Street project because the site was added to the plan after the resolution was adopted.

In addition to the July 2, 2010 letter and certification, Triplet relies on a February 4, 2010 letter to COAH commenting on an earlier January 2010 Compliance and Mediation Report. In the February 4, 2010 letter, Triplet maintains that the Mediation Report and recommendations of COAH staff in the Compliance Report are erroneous in that they do not recognize issues of material fact and deficiencies in Manalapan’s Housing Element and Fair Share Plan. Triplet argues that Manalapan’s petition for substantive certification should be denied or COAH should require Manalapan to use Triplet’s site as a condition of substantive certification. Triplet provides the following comments:

- 1. Due Process and Dispensing with COAH’s Regulations:** Triplet states that COAH is approving a plan that is constantly changing and has not been the subject of fair and adequate review by objectors and interested parties. Triplet claims that the language in the cover letter accompanying the Compliance Report is biased and undermines COAH’s impartial adjudicatory role in granting or denying a petition for substantive certification.
- 2. Lack of Information In What Amounts to a Phantom Plan:** Triplet argues that N.J.A.C. 5:97-3.2(a)4iv, which is the regulation that deals with implementation schedules

for certain projects, as applied to Manalapan, violates all norms of due process connected to the review of the petition for substantive certification. Triplet states that the fact that the rule allows the municipality to submit the documentation supporting the future 120-unit municipally sponsored project to be submitted at a time in the future does not allow an objector, COAH or the court to determine if the project and plan provides for a realistic opportunity.

- 3. Mediation:** Triplet maintains that it was not aware that mediation was concluded on September 29, 2009, until it received the mediation report. On the contrary, Triplet was under the impression that mediation was still ongoing. Triplet states that the COAH planner and mediator also assisted in getting Triplet an additional meeting with the Township's governing body, which took place on January 27, 2010. Triplet argues that if mediation was concluded, why wasn't a mediation report issued earlier pursuant to N.J.A.C. 5:96-8.4(d)? Further, Triplet argues that the regulation requires that an executed mediation agreement be submitted within 45 days of the last mediation session. The agreement between John Ploskonka and Manalapan was not submitted to COAH within 45 days from the end of mediation. Triplet also argues that the mediation agreement is not dated and loaded with conditions that leave uncertain whether the Township will acquire the Ploskonka property.
- 4. Failure to Re-petition or Move for Amendment:** Triplet argues that COAH violated its regulations and due process by failing to require Manalapan to re-petition when it added the Wood Avenue site to address a portion of its growth share obligation. Triplet maintains that N.J.A.C. 5:96-3.4(a) requires a municipality to re-petition whenever there is a change in site (at the time that the February 4, 2010 letter was submitted by Triplet, Manalapan had attempted to make the modifications to its fair share plan through a letter dated on July 31, 2009).
- 5. Disputes over Material Facts regarding the Wood Avenue Site:** Triplet argues that the Township has not demonstrated that the Wood Avenue site presents a realistic opportunity. Triplet submits certifications that it states raise genuine disputes of material fact. Triplet states that COAH cannot conclude the site is realistic without the facts about the feasibility and cost of the remediation of the contamination on the site. Triplet argues that the site suitability report of the Township's planner and a letter from Ecolsciences

summarizing a Phase I study that was completed on the site four years ago do not offer information on the extent, cost or timing of the remediation. Further, Triplet argues that there is no assurance that Ingerman will receive the tax credits this spring that are necessary for the project. Triplet also argues that the amended trust fund agreement states that the project will be 110 units (not 80) and the loan from the Township to Ingerman is conditioned on the developer receiving the tax credits.

Triplet further argues that COAH staff did not analyze the extent of the wetlands and contamination on the site. Triplet submits a certification that states that the site does not comply with the regulations of DEP for residential development. Triplet argues that there is no way to know that certificates of occupancy will be issued in March 2011 when there is no information on the cleanup.

6. Growth Share and Third Round Regulations as applied to Manalapan: Triplet argues that the growth share methodology, the allowed credits and reliance on N.J.A.C. 5:97-3.2(a)4 are unconstitutional and statutorily invalid as applied to Manalapan's plan. Triplet states that Manalapan's affordable housing number is too low, its number is reduced by credits unrelated to the allocated need as applied by N.J.A.C. 5:97-2.2 and 2.4, and does not take into effect the obligation from the Highlands communities, which should be reallocated. Manalapan improperly reduced its projected growth share obligation. Triplet further argues:

- Triplet maintains that Manalapan is not eligible for reductions pursuant to N.J.A.C. 5:97-2.4, because Manalapan would receive double credit for many of the excluded units.
- Triplet states that Manalapan's actual growth share is already 271 as of September 2008, when its projected adjusted growth share is 277 units.
- Triplet further argues that Manalapan's claim for credits for already constructed alternative living arrangements is unverified by COAH staff. Triplet states that N.J.A.C. 5:96-11 does not provide a provision for reviewing credits for built units.

- Triplet also disagrees with the granting of rental bonuses for the Wood Avenue site because it does not believe that the Township has provided a firm commitment for the project as required by the regulation.

Manalapan's Response

On July 2, 2010, Ronald D. Cucchiaro, Esq., on behalf of Manalapan Township, submitted a response to Triplet's comments. Manalapan maintains that the Lewis Street and Millhurst Road sites were not replaced in the revised Fair Share Plan as Triplet implies, but rather the Lewis Street site became a 100 percent affordable project with ten rather than two units, and the Wood Avenue project was added to the revised Fair Share Plan while the Millhurst Road site continues to be in the Fair Share Plan. In addition, the Township states that the inclusion of the Wood Avenue site eliminated Fair Share Housing Center's objection and was included in the most recent spending plan, and therefore, a part of the mediation process. Manalapan further maintains that Triplet had ample opportunity to review the documents and participate in the Planning Board public hearing process, but chose not to do so.

COAH's Response

In response to Triplet's opposition to the Township's motion for a re-petition with a minor revision, Manalapan has fully complied with N.J.A.C. 5:96-3.4. Triplet is correct when it states that the regulation requires that a municipality re-petition when "the revisions to the plan include a change in site, substantial change in density, a change in any other zoning requirements that result in a change of housing type on a specific site or a fundamental change in approach to its fair share obligation." The rule goes on to state that "However, if the revision alters the plan to address the municipality's fair share obligation by ten percent or less, it may be considered a minor revision pursuant to (b) below." Manalapan's addition of the Wood Ave site and modifications to the Millhurst Road and Lewis Street sites are well within the 10 percent or less criteria. In fact, Triplet's February 4, 2010 letter stated that these changes should have at least triggered a motion by the Township, which it has done pursuant to the regulation.

With regard to the resolution of intent to bond, Manalapan is not required to follow COAH's model. There is nothing in the regulations that prohibit the Township from including

language regarding the governing body's discretion in providing an alternative source of funding for the project. Certainly, the option to invoke a municipal bond is always at the discretion of the governing body. Further, it is the Township's prerogative to modify its certified Fair Share Plan at any time. Pursuant to N.J.A.C. 5:96-14.1(a), "Amendments may be approved by the Council at any time following a grant of substantive certification." With regard to the Lewis Street site, Manalapan's resolution of intent to bond is intended for "municipality sponsored affordable housing developments and a rehabilitation component." The Lewis Street site is a municipality sponsored affordable housing developments, and therefore, the resolution captures this project.

The following are responses to Triplet's other comments from its February 4, 2010 letter:

- 1. Due Process and Dispensing with COAH's Regulations:** As indicated above, Manalapan has fully complied with N.J.A.C. 5:96-3.4 by submitting a motion for a repetition with a minor revision. With regard to the cover letter, the letter does not imply that certification will surely be granted. The letter states that the Compliance Report recommends COAH staff approval of the municipality's petition for third round substantive certification. Substantive certification is only granted by the Council.
- 2. Lack of Information In What Amounts to a Phantom Plan:** Triplet is objecting to COAH's regulation at N.J.A.C. 5:97-3.2(a)4iv regarding the implementation schedule. N.J.A.C. 5:97-3.2(a)4 provides that municipalities may submit "an implementation schedule that sets forth a detailed timetable that demonstrates a 'realistic opportunity' as defined under N.J.A.C. 5:97-1.4 and a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6" for certain mechanisms being used to address the growth share obligation. This allows municipalities to phase the construction of certain projects throughout the third round period. Municipalities are required to provide a schedule that indicates when certain documentation or actions will be submitted and completed, such as the identification of a site, a request for proposals (RFP), local approvals, commencement of construction, etc. Manalapan is complying with COAH's regulations regarding the phasing of the Millhurst Road project. Further, N.J.A.C. 5:97-4.1(a) provides that COAH shall not consider any objection regarding its rules and regulations as a valid objection.

- 3. Mediation:** At the September 29, 2009 mediation, it was recommended that Triplet revise its development proposal and present a revised mixed-use development proposal to the Township, possibly to the Township's Planning Board in a work session. The COAH mediator made it clear at the mediation that this was outside of the COAH process, but that it might help to create affordable housing. However, the mediator concluded that mediation was closed at that session. The mediator and COAH planner did, in fact, try to assist the objector in obtaining a meeting with the Township to facilitate further discussions outside of the COAH process.

With regard to the Ploskonka agreement, the resolution authorizing the mediation agreement between Manalapan and Mr. John Ploskonka was passed by the Township's governing body on January 13, 2010. Pursuant to N.J.A.C. 5:97-6.7(d), construction of the Ploskonka project must begin within two years of substantive certification. COAH will monitor the status of the construction at Manalapan's first plan review. If within two years the project is still not constructed, Manalapan will be required to amend its plan to replace the units.

- 4. Failure to Re-petition or Move for Amendment:** See response to #1 above.
- 5. Disputes over Material Facts regarding the Wood Avenue Site:** The Ingerman Group will be required to conduct further investigations of the contamination of the Wood Avenue site pursuant to DEP's regulations. The project will also be required to comply with all DEP's regulations for remediation of the site. Pursuant to N.J.A.C. 5:97-6.7(d), construction of the Wood Avenue project must begin within two years of substantive certification. COAH will monitor the status of the construction at Manalapan's first plan review, if not sooner. If the project cannot be remediated according to DEP's standards, and as a result, cannot be constructed, Manalapan will be required to amend its plan to replace the units. This also applies to the funding for the project. If the project does not receive the appropriate funding required and the Township chooses not to fund the project with either its trust fund money or bond for the project, Manalapan will be required to amend its plan to replace the units. However, the Township must be permitted a reasonable opportunity for these actions (remediation and funding) to take place.

Further, one of the goals of the State Plan is to encourage reuse of brownfields and other underutilized and contaminated sites, which is supported by COAH and other

state agencies. In fact, HMFA's QAP provides additional points to contaminated sites in the tax credit competition. If the project receives a 9 percent tax credit award in July 2010, construction will be required to be completed within two years after the year it is allocated credits.

The amended trust fund agreement between Ingerman and Manalapan clearly states on the first page that the original number of units has been reduced from 110 units to 80 units. In addition, the governing body resolution authorizing the trust fund agreement states that the project will be 80 units.

With regard to the wetlands on the Ingerman site, the COAH Compliance Report does analyze the wetlands on the site. COAH staff did review the DEP GIS information for the site and conducted a site visit. The Compliance Report states that there are 16.80 acres (out of 26.32 total acres) of wetlands on the northern (back) portion of the site, leaving the already disturbed portion on Wood Avenue unencumbered, which is where the proposed development will take place. Further, the site will be required to address all DEP's regulations regarding buffering and permitting.

6. Growth Share and Third Round Regulations as applied to Manalapan: Many of the comments in this section of the Triplet objection are challenges to COAH's regulations. Pursuant to N.J.A.C. 5:96-4.1, the Council shall not consider any objections regarding its rules and regulations as a valid objection. In addition, these issues are raised in the pending appeals that are before the Appellate Division.

- With regard to Manalapan's actual growth share as of September 2008, the 271 units do not take into account the allowable exclusions pursuant under N.J.A.C. 5:97-2.4, which will lower the actual growth share obligation.
- Pursuant to N.J.A.C. 5:97-4.1(d), all credits shall be subject to verification and validation when a municipality petitions for substantive certification, or during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11. While N.J.A.C. 5:96-11 does not specifically address the validation for credits for built units, N.J.A.C. 5:96-11.1(a) states that municipalities shall provide monitoring information in accordance with this subchapter at such time and in such form as the Council requires, but at least once a year. COAH has developed

an online COAH Tracking & Monitoring system (CTM), in which municipalities are required to enter project and unit information for their affordable units on an ongoing basis. This is the information that COAH will validate at a later time.

- The amended housing trust fund agreement between the Ingerman Group and Manalapan provides a firm commitment for the rental bonuses as required by N.J.A.C. 5:97-3.6(a)3ii.

Therefore, as discussed in the COAH Compliance Report, Manalapan's plan comports with COAH regulations.